

the consideration of matters not already adjudicated, sufficient cause being shown.

[77 FR 46628, Aug. 6, 2012]

APPEAL TO THE UNITED STATES COURT
OF APPEALS FOR THE FEDERAL CIRCUIT
IN *Inter Partes* REEXAMINATION

**§ 1.983 Appeal to the United States
Court of Appeals for the Federal
Circuit in *inter partes* reexamina-
tion.**

(a) The patent owner or third party requester in an *inter partes* reexamination proceeding who is a party to an appeal to the Patent Trial and Appeal Board and who is dissatisfied with the decision of the Patent Trial and Appeal Board may, subject to § 41.81, appeal to the U.S. Court of Appeals for the Federal Circuit and may be a party to any appeal thereto taken from a reexamination decision of the Patent Trial and Appeal Board.

(b) The appellant must take the following steps in such an appeal:

(1) In the U.S. Patent and Trademark Office, timely file a written notice of appeal directed to the Director in accordance with §§ 1.302 and 1.304;

(2) In the U.S. Court of Appeals for the Federal Circuit, file a copy of the notice of appeal and pay the fee, as provided for in the rules of the U.S. Court of Appeals for the Federal Circuit; and

(3) Serve a copy of the notice of appeal on every other party in the reexamination proceeding in the manner provided in § 1.248.

(c) If the patent owner has filed a notice of appeal to the U.S. Court of Appeals for the Federal Circuit, the third party requester may cross appeal to the U.S. Court of Appeals for the Federal Circuit if also dissatisfied with the decision of the Patent Trial and Appeal Board.

(d) If the third party requester has filed a notice of appeal to the U.S. Court of Appeals for the Federal Circuit, the patent owner may cross appeal to the U.S. Court of Appeals for the Federal Circuit if also dissatisfied with the decision of the Patent Trial and Appeal Board.

(e) A party electing to participate in an appellant's appeal must, within fourteen days of service of the appel-

lant's notice of appeal under paragraph (b) of this section, or notice of cross appeal under paragraphs (c) or (d) of this section, take the following steps:

(1) In the U.S. Patent and Trademark Office, timely file a written notice directed to the Director electing to participate in the appellant's appeal to the U.S. Court of Appeals for the Federal Circuit by mail to, or hand service on, the General Counsel as provided in § 104.2;

(2) In the U.S. Court of Appeals for the Federal Circuit, file a copy of the notice electing to participate in accordance with the rules of the U.S. Court of Appeals for the Federal Circuit; and

(3) Serve a copy of the notice electing to participate on every other party in the reexamination proceeding in the manner provided in § 1.248.

(f) Notwithstanding any provision of the rules, in any reexamination proceeding commenced prior to November 2, 2002, the third party requester is precluded from appealing and cross appealing any decision of the Patent Trial and Appeal Board to the U.S. Court of Appeals for the Federal Circuit, and the third party requester is precluded from participating in any appeal taken by the patent owner to the U.S. Court of Appeals for the Federal Circuit.

[68 FR 71008, Dec. 22, 2003, as amended at 72 FR 18907, Apr. 16, 2007; 77 FR 46628, Aug. 6, 2012]

CONCURRENT PROCEEDINGS INVOLVING
SAME PATENT IN *Inter Partes* REEXAMINATION

§ 1.985 Notification of prior or concurrent proceedings in *inter partes* reexamination.

(a) In any *inter partes* reexamination proceeding, the patent owner shall call the attention of the Office to any prior or concurrent proceedings in which the patent is or was involved, including but not limited to interference or trial before the Patent Trial and Appeal Board, reissue, reexamination, or litigation and the results of such proceedings.

(b) Notwithstanding any provision of the rules, any person at any time may